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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,084	09/08/2004	Kristof Van Emelen	PRD-2014	8901
7590		06/01/2007		
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			EXAMINER	
			YOUNG, SHAWQUA	
			ART UNIT	PAPER NUMBER
			1626	
			MAIL DATE	DELIVERY MODE
			06/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/507,084

Applicant(s)

VAN EMELEN, KRISTOF

Examiner

Shawquia Young

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14-25 is/are pending in the application.
- 4a) Of the above claim(s) 21-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-20 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Claims 14-25 are currently pending in the instant application. Claims 1-13 have been cancelled by preliminary amendment.

#### I. *Priority*

The instant application is a 371 of PCT/EP03/02510, filed on March 11, 2003 which claims benefit of Provisional Application 60/363,799, filed on March 13, 2002 and claims benefit of Foreign Application EPO 02/14833, filed on December 23, 2002.

#### II. *Restriction/Election*

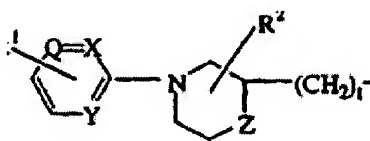
##### *A. Election: Applicant's Response*

Applicants' election with traverse of the Group that is drawn to a compound of formula (I) wherein Q is C; X is N; Y is N; Z is O or NH; t is 0,1,2,3 or 4; L is as defined in claim 1; R<sup>1</sup> is as defined in claim 1 excluding heteroaryl and heterocyclic related groups in R<sup>7</sup>; R<sup>2</sup> is as defined in claim 1; A is phenyl, naphthyl or indolyl; and R<sup>5</sup> is hydrogen or phenyl in the reply filed on April 5, 2007 is acknowledged. The traversal is on the ground(s) that: (1) the Examiner did not provide the required support for the lack of unity.

All of the Applicants' arguments have been considered but have not been found persuasive. It is pointed out that the restriction requirement is made under 35 U.S.C. 121. 35 U.S.C. 121 gives the Commissioner (Director) the authority to restrict applications to several claimed inventions when those inventions are found to be independent and distinct. The Examiner has indicated that more than one independent

and distinct invention is claimed in this application and has restricted the claimed subject matter accordingly.

Applicants argue that the Examiner's assertion that the exemplary Groups I-IX are not so linked as to form a single general inventive concept under PCT Rule 13.1 lacks required support. Applicants further argue that the burden is on the Examiner to cite appropriate prior art to clearly show that the defined Groups clearly have distinct status in the art. However, the Examiner wants to point out that the prior art is used to show that Applicants' special technical feature is present in the art. The Examiner



defines the special technical feature as without any variables.

That is the common link between all of the claims of the instant application. The special technical feature does not define a contribution over the prior art (See, US 5,342,846, for example).

Subject matter not encompassed by elected Group that is drawn to a compound of formula (I) wherein Q is C; X is N; Y is N; Z is O or NH; t is 0,1,2,3 or 4; L is as defined in claim 1; R<sup>1</sup> is as defined in claim 1 excluding heteroaryl and heterocyclic related groups in R<sup>7</sup>; R<sup>2</sup> is as defined in claim 1; A is phenyl, naphthyl or indolyl; and R<sup>5</sup> is hydrogen or phenyl are withdrawn from further consideration pursuant to 37 CFR 1.142 (b), as being drawn to nonelected inventions.

### III. Rejections

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-20 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. Applicant's claim 14 recites "A compound of formula (I), the N-oxide forms." The specification states:

The N-oxide forms of the compounds of formula (I) are meant to comprise those compounds of formula (I) wherein one or several nitrogen atoms are oxidized to the so-called N-oxide, particularly those N-oxides wherein one or more of the piperidine-, piperazine or pyridazinyl-nitrogens are N-oxidized.

The omitted structural cooperative relationship is the "N-oxide forms" of formula (I). It is unclear what or how many nitrogen atoms are N-oxide forms. The rejection will be obviated by deleting the term "N-oxide forms."

Claims 14-20 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claim recites "another Zn-chelating group."

The specification discloses that:

The term "another Zn-chelating group" refers to a group, which is capable of interacting with a Zn-ion, which can be present at an enzymatic binding site.

The claim is indefinite because it is not clear what R<sup>1</sup> group is deemed Zn-chelating in

relation to "another". The rejection will be obviated by deleting the term "Zn-chelating group".

#### **IV. Objections**

##### **Claim Objection-Non Elected Subject Matter**

Claims 14-20 and 25 are objected to as containing non-elected subject matter. To overcome this objection, Applicant should submit an amendment deleting the non-elected subject matter.

##### **Specification**

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that Applicant delete the word "novel".

##### **Claim Objection**

Claims 19 and 25 are objected to because of the following informalities: not ending with a period. Each claim begins with a capital letter and ends with a period (MPEP 608.01 (m)). In claim 25, the term "an" does not agree with the plural form of "anti-cancer agents" and "compound" is misspelled. Appropriate correction is required.

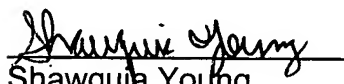
Art Unit: 1626


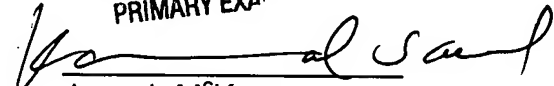
## V. Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawquia Young whose telephone number is 571-272-9043. The examiner can normally be reached on 7:00 AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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